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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

10  
11 MARCIANO PLATA, et al.,

12 *Plaintiffs,*

13 v.

14 ARNOLD SCHWARZENEGGER, et al.,

15 *Defendants.*  
16  
17  
18  
19

Case No. C01-1351 TEH

**DECLARATION OF TERRY HILL, M.D.  
IN SUPPORT OF RECEIVER'S  
SUPPLEMENTAL APPLICATION NO. 7  
FOR ORDER WAIVING STATE  
CONTRACTING STATUTES,  
REGULATIONS AND PROCEDURES  
AND AUTHORIZING RECEIVER TO  
ENTER INTO CONTRACT FOR  
QUALITY MEASUREMENT  
TECHNICAL ASSISTANCE**

1 I, Terry Hill, declare as follows:

- 2 1. I am currently the Chief Executive Officer, Medical Services, for the California Prison  
3 Health Care Receivership and make this declaration in support of the Receiver's  
4 Supplemental Application No. 7 for a Waiver of State Contracting Procedures. The facts  
5 set forth herein are based on my own personal knowledge and, if called as a witness, I  
6 could competently testify thereto.
- 7 2. I received my B.A. in Literature from Reed College in 1974 and an M.D. from the  
8 University of California, San Francisco in 1987. From 1987 to 1991, I was first a  
9 Resident in Primary Care Internal Medicine and then Chief Resident in Internal Medicine  
10 at Highland General Hospital in Oakland, California. From 1991 to 1993, I was a Fellow  
11 in Geriatrics at Stanford University and the Palo Alto Veterans Administration Medical  
12 Facility. I was a National Institute of Health Postdoctoral Research Fellow at Stanford  
13 University from 1993 to 1994. From 1994 to the present, I have been on the medical  
14 school faculty at Stanford University and since 2000, I have been an Assistant Clinical  
15 Professor in the Department of Medicine at the University of California, San Francisco. I  
16 also serve on the Advisory Boards of the Northern California Geriatric Education Center  
17 and the Northern California Geriatric Education Center. In addition to my academic  
18 affiliations discussed above, I was in private practice as a geriatrician from 1994 to 1999.
- 19 3. I have also served as the Medical Director of a hospitalist physician group at Summit  
20 Medical Center in Oakland California, the Medical Director of Laguna Honda Hospital  
21 and Rehabilitation Center in San Francisco, as well as the Medical Director and Senior  
22 Medical Director for Quality Improvement at Lumetra.
- 23 4. More recently, I served this Court as a Medical Expert in both *Madrid v. Schwarzenegger*  
24 and in this action. Since 2006, I have been employed by the Receiver, first as his Chief  
25 Medical Officer, and now as Chief Executive Officer, Medical Services. I have served  
26 in various capacities with numerous community and professional organizations pertaining  
27 to medical care, and have authored many articles and spoken at conferences on various  
28 issues in health care and the improvement of the delivery of health care services.

- 1       5. As the Court is aware, the Receiver is undertaking quality improvement programs within  
2       the state prisons. Quality measurement is one of the keys to sustaining a continually  
3       improving health care organization. Thus, this Court has ordered that the Receiver  
4       develop methods for measuring the performance of the medical care system as the  
5       Receiver undertakes to bring it up to Constitutional standards. To ensure sustainability  
6       organizational outcomes must be routinely measured, evaluated and analyzed. Then,  
7       steps must be taken to adjust organizational resources, processes and practices to improve  
8       those outcomes. There must be “feedback loops” that encourage best practices and a  
9       culture of accountability that discourages noncompliant behavior. Currently in CDCR,  
10      however, timely, accurate data about outcomes is virtually non-existent and there is no  
11      quality management infrastructure in place.
- 12     6. There are no modern, enterprise-level data systems in place in CDCR; instead, prisons  
13      have historically operated more or less autonomously in setting and measuring  
14      performance standards. There are no systematic quality measurement processes and no  
15      staff dedicated to quality data collection. There has been no analysis of necessary sample  
16      sizes or sample selection procedures for quality measurement. Throughout the entire  
17      nation, there has been limited experience with the use of free-world quality measures in  
18      prisons, and there has been no validation of prison-specific measures of access to care. If  
19      quality is to be measured, systems appropriate to the prison environment must be  
20      developed and deployed.
- 21     7. The Receiver is committed both to quality improvement and to implementing systems for  
22      measuring quality improvement. Thus, Goal 4 of the Receiver’s Turnaround Plan of  
23      Action is to “Implement Quality Improvement Programs.” The very first of the  
24      Objectives under Goal 4 is to establish a clinical quality measurement and evaluation  
25      program and to establish, by July 2011, sustainable programs for quality measurement,  
26      evaluation and patient safety. The Receiver has begun to establish a Measurement and  
27      Evaluation Unit whose charge it is to implement the quality improvement objectives. The  
28      ultimate goal is to develop balanced scorecards showing each institution’s disease burden,

utilization, staffing, access-to-care measures, clinical quality indicators and financial performance.

8. There are three broad components to the Receiver's efforts to develop quality improvement measurements: (1) adapting free-world quality measures that have been developed over the last decade or so to the prison environment; (2) prison-specific measures of access-to-care that integrate and utilize information provided by the electronic scheduling and tracking system now being developed as well as the Access-to-Care Initiative that the Receiver has begun; and, (3) development of credible approaches that can measure quality in the current "paper" environment – which lacks adequate electronic data systems – but which can be exported over time into a combined paper/electronic environment and finally into a completely electronic environment.
9. Because the Receiver is currently developing and implementing electronic data systems there is great urgency to obtaining technical assistance for simultaneously developing a quality measurement system that can be implemented soon, but which will be sufficiently adaptable to transition into the electronic environment. Accordingly, in June 2008, the Receiver issued a Request for Offer ("RFO") seeking bids for technical assistance to develop a quality measurement program. A true and correct copy of the RFO is attached hereto as Exhibit 1. The scope of work for the RFO was identified as the following:
  - a. Assess the adequacy of current clinical quality measurement approaches in CDCR, including:
    - The audit instrument and strategies used by the Quality Management Assistance Teams (QMAT) in 2004-2005 and used sporadically since.
    - The audit instrument and strategies used by the Office of the Inspector General (OIG) in its 2008 prison medical care inspections.
    - The strategies used to survey the California Out-of-State Correctional Facilities (COCFs).
    - The quality improvement measurement strategies used in the Access-to-Care Initiative.
  - b. Survey the clinical quality measurement approaches being used by leading state prison systems, the Federal Bureau of Prisons, and other relevant systems, with particular focus on standards and measures of access to care.
  - c. Given the current and expected quality infrastructure within the prison medical care system and the expected incremental transition from a paper to an electronic environment, recommend a set of reasonable two-year approaches to quality

1 measurement, including data definitions and collection strategies, for purposes of  
2 both quality improvement and accountability.

3 Exh. 1, p. 10.

4 10. The deadline for proposals was June 23, 2008. Proposals were submitted by Deloitte &  
5 Touche, RAND Corporation and Gartner. I and Jamie Mangum, the Receiver's Chief  
6 Information Officer, were the evaluators. The proposals were judged by a point system  
7 applied to three broad considerations: administrative criteria from RFO response,  
8 technical criteria and cost criteria. Based on these factors, RAND submitted the proposal  
9 that we concluded achieved the highest score. A true and correct copy of RAND's  
10 proposal is attached as Exhibit 2 and true and correct copies of the rating sheets are  
11 attached collectively hereto as Exhibit 3. RAND offered to undertake the project for  
12 \$426,000 and is prepared to commence work as soon as a contract is executed.

13 11. As indicated above, the Receiver has great need to move quickly with respect to the  
14 contract at issue because electronic data systems are being developed and implemented  
15 and the Receiver wishes to have in place a quality measurement system that will work  
16 with paper, paper/electronic and fully electronic systems. Given the need to move  
17 quickly, we utilized the Urgent Informal Bidding process established by this Court's  
18 Order dated June 7, 2007 in obtaining the three proposals. In my opinion, the proposed  
19 contract is essential to the critical path of the Receiver's quality improvement program –  
20 and thus the health and safety of inmate patients – and therefore the additional delay that  
21 would have resulted from utilizing the expedited formal bidding process established by  
22 the June 7, 2007 Order would significantly interfere with timely or cost-effective  
23 implementation of the quality improvement program. In addition, we estimated, and the  
24 proposed contract award is in fact, less than \$750,000. Although we have completed the  
25 bidding process, the Receiver has not executed a contract with RAND pending  
26 authorization to do so by this Court.

27 12. We have reviewed the proposal with the Office of Inspector General ("OIG") and  
28 understand that the OIG is enthusiastic about cooperating with RAND in the development

1 and implementation of the systems for measuring quality improvement.

2 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
3 true and correct.

4 Dated: September 2, 2008

\_\_\_\_\_  
/s/  
Terry Hill, M.D.

6  
7 I hereby attest that I have on file all holograph  
8 signatures for any signatures indicated by a  
9 "conformed" signature (/s/) within this efiled  
document.

10 \_\_\_\_\_  
/s/  
11 Martin H. Dodd  
Attorneys for Receiver J. Clark Kelso

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies as follows:

I am an employee of the law firm of Futterman & Dupree LLP, 160 Sansome Street, 17<sup>th</sup> Floor, San Francisco, CA 94104. I am over the age of 18 and not a party to the within action.

I am readily familiar with the business practice of Futterman & Dupree, LLP for the collection and processing of correspondence.

On September 2, 2008, I served a copy of the following document(s):

**DECLARATION OF TERRY HILL, M.D. IN SUPPORT OF RECEIVER'S SUPPLEMENTAL APPLICATION NO. 7 FOR ORDER WAIVING STATE CONTRACTING STATUTES, REGULATIONS AND PROCEDURES AND AUTHORIZING RECEIVER TO ENTER INTO CONTRACT FOR QUALITY MEASUREMENT TECHNICAL ASSISTANCE**

by placing true copies thereof enclosed in sealed envelopes, for collection and service pursuant to the ordinary business practice of this office in the manner and/or manners described below to each of the parties herein and addressed as follows:

— BY FACSIMILE: I caused said document(s) to be transmitted to the telephone number(s) of the addressee(s) designated.

X BY MAIL: I caused such envelope(s) to be deposited in the mail at my business address, addressed to the addressee(s) designated below. I am readily familiar with Futterman & Dupree's practice for collection and processing of correspondence and pleadings for mailing. It is deposited with the United States Postal Service on that same day in the ordinary course of business.

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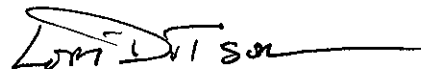
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21  
22 I declare that I am employed in the offices of a member of the State Bar of this Court at  
23 whose direction the service was made. I declare under penalty of perjury, under the laws of the  
united State of America, that the above is true and correct.

24 Executed on September 2, 2008 at San Francisco, California.

25 

26 Lori Dotson  
27  
28